

Volume 28, Number 9
Pages 841-942
May 1, 2003



MATT BLUNT

SECRETARY OF STATE

MISSOURI REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo 2000. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or “official” without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

MATT BLUNT

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

LYNNE C. ANGLE

•

EDITORS

BARBARA MCDUGAL

•

JAMES MCCLURE

ASSOCIATE EDITORS

CURTIS W. TREAT

SALLY L. REID

TIFFANY M. DAVIS

•

PUBLISHING STAFF

WILBUR HIGHBARGER

CARLA HERTZING

HEATHER M. DOWNS

•

ADMINISTRATIVE STAFF

SANDY SANDERS

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://www.sos.state.mo.us/adrules/moreg/moreg.asp> and the CSR is <http://www.sos.state.mo.us/adrules/csr/csr.asp>. These web sites contain rulemakings and regulations as they appear in the Registers and CSR. These web sites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo 2000. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by e-mail at rules@sosmail.state.mo.us.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



IN THIS ISSUE:

FROM THIS ANGLE	845	State Board of Cosmetology	898
EMERGENCY RULES		State Board of Registration for the Healing Arts	898
Department of Mental Health		Landscape Architectural Council	899
Director, Department of Mental Health	847	State Board of Nursing	899
Certification Standards	848	State Board of Pharmacy	899
Division of Mental Retardation and Developmental Disabilities	848	State Board of Podiatric Medicine	900
Department of Health and Senior Services		State Committee for Social Workers	900
Division of Health Standards and Licensure	849	Department of Elementary and Secondary Education	
PROPOSED RULES		Division of School Improvement	909
Department of Conservation		Teacher Quality and Urban Education	910
Conservation Commission	851	Department of Public Safety	
Department of Economic Development		Division of Fire Safety	910
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects	852	Department of Revenue	
Missouri Board of Geologist Registration	857	Director of Revenue	911
Board of Examiners for Hearing Instrument Specialists	857	Retirement Systems	
Missouri Veterinary Medical Board	859	The County Employee's Retirement Fund	912
Department of Elementary and Secondary Education		Department of Health and Senior Services	
Vocational Rehabilitation	864	Division of Environmental Health and Communicable Disease Prevention	913
Department of Mental Health		IN ADDITIONS	
Director, Department of Mental Health	873	Department of Economic Development	
Certification Standards	874	Division of Credit Unions	914
Division of Mental Retardation and Developmental Disabilities	874	Department of Health and Senior Services	
Department of Natural Resources		Division of Maternal, Child and Family Health	914
Hazardous Waste Management Commission	874	Division of Nutritional Health and Services	914
Land Survey	878	DISSOLUTIONS	915
Department of Revenue		BID OPENINGS	
Director of Revenue	881	Office of Administration	
Department of Health and Senior Services		Division of Purchasing	916
Division of Senior Services	890	SOURCE GUIDES	
Division of Health Standards and Licensure	896	RULE CHANGES SINCE UPDATE	917
ORDERS OF RULEMAKING		EMERGENCY RULES IN EFFECT	928
Department of Economic Development		EXECUTIVE ORDERS	930
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects	897	REGISTER INDEX	931

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
March 3, 2003 March 17, 2003	April 1, 2003 April 15, 2003	April 30, 2003 April 30, 2003	May 30, 2003 May 30, 2003
April 1, 2003 April 15, 2003	May 1, 2003 May 15, 2003	May 31, 2003 May 31, 2003	June 30, 2003 June 30, 2003
May 1, 2003 May 15, 2003	June 2, 2003 June 16, 2003	June 30, 2003 June 30, 2003	July 30, 2003 July 30, 2003
June 2, 2003 June 16, 2003	July 1, 2003 July 15, 2003	July 31, 2003 July 31, 2003	August 30, 2003 August 30, 2003
July 1, 2003 July 15, 2003	August 1, 2003 August 15, 2003	August 31, 2003 August 31, 2003	September 30, 2003 September 30, 2003
August 1, 2003 August 15, 2003	September 2, 2003 September 15, 2003	September 30, 2003 September 30, 2003	October 30, 2003 October 30, 2003
September 2, 2003 September 15, 2003	October 1, 2003 October 15, 2003	October 31, 2003 October 31, 2003	November 30, 2003 November 30, 2003

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.state.mo.us/adrules/pubsched.asp>

Missouri Depository Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Depository Documents Law (section 181.100, RSMo 2000), are available in the listed depository libraries, as selected by the Missouri State Library:

Jefferson County Library PO Box 1486, 3021 High Ridge High Ridge, MO 63049-1486 (314) 677-8689	Learning Resources Center Mineral Area College PO Box 1000 Park Hills, MO 63601-1000 (573) 431-4593	Missouri Western State College Hearnes Learning Resources Ctr. 4525 Downs Drive St. Joseph, MO 64507-2294 (816) 271-5802	Library University of Missouri-Rolla 1870 Miner Circle Rolla, MO 65409-0060 (573) 341-4007
Jefferson College Library 1000 Viking Drive Hillsboro, MO 63050-2441 (314) 789-3951	Cape Girardeau Public Library 711 N. Clark Cape Girardeau, MO 63701-4400 (573) 334-5279	Library North Central Missouri College PO Box 111, 1301 Main Street Trenton, MO 64683-0107 (660) 359-3948	Kinderhook Regional Library 135 Harwood Ave. Lebanon, MO 65536-3017 (417) 532-2148
St. Louis Public Library 1301 Olive St. St. Louis, MO 63103-2389 (314) 539-0376	Kent Library Southeast Missouri State University One University Plaza Cape Girardeau, MO 63701-4799 (573) 651-2757	Missouri Southern State College Spiva Library 3950 East Newman Road Joplin, MO 64801-1595 (417) 625-9770	ESTEP Library Southwest Baptist University 1601 S. Springfield Street Bolivar, MO 65613-2597 (417) 326-5281
St. Louis University Law Library 3700 Lindell Blvd. St. Louis, MO 63108-3478 (314) 977-2756	Riverside Regional Library PO Box 389, 204 South Union St. Jackson, MO 63755-0389 (573) 243-8141	Missouri State Library 600 West Main, PO Box 387 Jefferson City, MO 65102-0387 (573) 751-3075	Barry-Lawrence Regional Library 213 6th St. Monett, MO 65708-2147 (417) 235-6646
Eden Theological Seminary/ Webster University Eden/Webster Library 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411
Thomas Jefferson Library University of Missouri-St. Louis 8001 Natural Bridge Road St. Louis, MO 63121-4499 (314) 516-5084	Ward Edwards Library Central Missouri State University 142 Edwards Library Warrensburg, MO 64093-5020 (660) 543-4149	Elmer Ellis Library University of Missouri-Columbia 104 Ellis Library Columbia, MO 65211-5149 (573) 882-6733	West Plains Campus Library Southwest Missouri State University 123 N. Minnesota West Plains, MO 65775-3414 (417) 256-9865
Washington University Washington University Law Library Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6484	Kansas City Public Library 311 East 12th St. Kansas City, MO 64106-2454 (816) 701-3400	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65201-7298 (573) 882-7083	Springfield-Greene County Library PO Box 737, 397 E. Central Springfield, MO 65801-0760 (417) 869-4621
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161	Meyer Library Southwest Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
Maryville University Library 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	University of Missouri-Kansas City Miller Nichols Library 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-1281	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125	
St. Charles City-County Library Middendorf-Kredell Branch 2750 Hwy K O'Fallon, MO 63366-7859 (314) 978-7997	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	Central Methodist College Smiley Memorial Library 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6292	
Truman State University Pickler Memorial Library 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416	River Bluffs Regional Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151		

HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.



FROM THIS ANGLE...

Updating Needed?

Has your agency reviewed your administrative rules that are published in the *Code of State Regulations* lately? Many agencies discover when reviewing the same that their rules and regulations are out-of-date! When was the last time your agency reviewed their rules? Of the approximately 10,000 pages in the *Code of State Regulations* the rulemakings of many agencies are out-of-date. Please look over your rules that are lodged in *Code* to see if you need to update the same. Remember, the rules and regulations that are published in the *Code of State Regulations* are the rules that are in effect.

Rules may have been superceded by court decision or statutory changes, and in those cases a state agency should take steps to make sure its rules accurately reflect such changes and that you notify our office of those changes so that they may be properly reflected in *Code*. This is the agency's responsibility.

Forms

This is another area where many agencies are revisiting what currently is contained in their rulemakings published in *Code*. Forms are often revised and/or amended, however, the form that currently is published in *Code* is also considered the "official" form. Many agencies have adopted the practice of referring the reader to their respective website address for the most current downloadable, fillable form, rather than making their forms a part of their rules. This is a win/win situation for the agency and the user. The agency's forms, and, therefore, their rules contain the most current content; and the user has access to the newest form and, therefore does not risk rejection of a form due to the improper version being utilized. If you need assistance with this, please contact our office.

Incorporated by Reference Material?

Do your rulemakings cite incorporated by reference material? If so, are those materials so incorporated on file in your office and in our office? By statute, we must have the incorporated by reference material on file here; and you must also retain a copy of the same in your office.

Moving rules . . . needing to move rules?

Is your agency or division being affected by legislation (either current or recently passed) that will move a division or department to another agency? Are your rules currently published in the *Code of State Regulations* reflective of this move? Do you need assistance from our staff in advising you the quickest, easiest manner for moving your rules? If so, give us a call! We meet with agencies on a regular basis to assist them in this manner.

And, finally, remember . . . to get text from us!!

If you find your rules do need revision and you are beginning to revise your rules, please call us for the text of your rules as they currently exist in the *Code of State Regulations*. We can send you an e-mail containing the electronic copy of your text. This will save you many keystrokes in revising your rulemakings! And, you will be beginning your revisions with the current published version of the rule, rather than an earlier version.

As always, please contact us if we may be of assistance to you in any way in the rulemaking process.



Lynne C. Angle
Director, Administrative Rules

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 10—Director, Department of Mental Health Chapter 5—General Program Procedures

EMERGENCY RULE

9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA)

PURPOSE: *This rule alerts providers to the possible HIPAA Privacy Rule requirements if the provider has determined that it is a covered entity as defined by HIPAA. Once that is established, this rule lists policies and procedures that the HIPAA Privacy Rule requires for each covered entity.*

EMERGENCY STATEMENT: *This emergency rule requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency rule is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency rule. A proposed rule, which covers this same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Mental Health believes this emergency rule is fair to*

all interested persons and parties under the circumstances. This emergency rule was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(1) This rule applies to all programs licensed, certified or funded by the Department of Mental Health.

(2) Definitions.

(A) HIPAA: the Health Insurance Portability and Accountability Act of 1996 (45 CFR parts 160 and 164) as it relates to Privacy.

(B) Protected Health Information (PHI): As defined by HIPAA (45 CFR section 164.501), PHI is individually identifiable health information that is—

1. Transmitted by electronic media;
2. Maintained in any medium described in the definition of electronic media; or
3. Transmitted or maintained in any other form or medium.

(C) Individually identifiable health information: As defined by HIPAA (45 CFR section 160.103), individually identifiable health information is any information, including demographic information, collected from an individual that is—

1. Created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
2. Related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and which identifies the individual, or with respect to which there is reasonable basis to believe that the information can be used to identify the individual.

(D) Business associate: As defined by HIPAA (45 CFR section 160.103), a person who, on behalf of the covered entity or provider or of an organized healthcare arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of:

1. A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or
2. Any other function or activity regulated by this subchapter; or provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized healthcare arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(3) All providers who determine that they qualify as covered entities must comply with the provisions of the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A covered entity is defined as a healthcare provider, a health plan or a clearinghouse. The effective date of the Privacy Rule is April 14, 2003. IF this provider is a covered entity, THEN HIPAA requires the appropriate policies and procedures be in place to comply with the HIPAA Privacy Rule. HIPAA requires such policies and procedures to include, but not be limited to, the following topics: Notice of Privacy Practices, Amendment of Protected Health Information (PHI), Client Access to PHI, Accounting of Disclosures, Workforce Training, Verification, Authorization for Disclosures of PHI, HIPAA Complaint Process, Marketing (if applicable), Research (if applicable), Audit and Monitoring of HIPAA compliance, and Business Associates Agreements with those companies providing goods and

services which require the disclosure of PHI, etc. Where existing confidentiality protections provided by 42 CFR part 2, related to the release of alcohol and drug abuse records, are greater than HIPAA, then the department anticipates that the provider will consider any such provision of 42 CFR part 2 as the guiding law.

AUTHORITY: section 630.050, RSMo Supp. 2002, 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Emergency rule filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance
Abuse Programs**

EMERGENCY AMENDMENT

9 CSR 10-7.090 Governing Authority and Program Administration. The department proposes to add a new section (6).

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EMERGENCY STATEMENT: This emergency amendment requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency amendment is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency amendment. A proposed amendment, which covers this same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Mental Health believes this emergency amendment is fair to all interested persons under the circumstances. This emergency amendment was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(6) Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulatory Compliance. The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220.

AUTHORITY: sections 630.050 and 630.055, RSMo 2000 and 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 3—Alcohol and Drug Abuse Programs**

EMERGENCY AMENDMENT

9 CSR 30-3.032 Certification of Alcohol and Drug Abuse Programs. The department proposes to add a new paragraph (3)(A)17.

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EMERGENCY STATEMENT: This emergency amendment requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency amendment is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency amendment. A proposed amendment, which covers this same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Mental Health believes this emergency amendment is fair to all interested persons under the circumstances. This emergency amendment was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(3) Other Rules and Standards. In addition to standards for specific programs and services, the organization must comply with other applicable requirements.

(A) The following Core Rules for Psychiatric and Substance Abuse Programs must be met, unless otherwise stipulated in standards for specific programs and services:

1. 9 CSR 10-7.010 Treatment Principles and Outcomes;
2. 9 CSR 10-7.020 Rights, Responsibilities and Grievances;
3. 9 CSR 10-7.030 Service Delivery Process and Documentation;
4. 9 CSR 10-7.040 Quality Improvement;
5. 9 CSR 10-7.050 Research;
6. 9 CSR 10-7.060 Behavior Management;
7. 9 CSR 10-7.070 Medications;
8. 9 CSR 10-7.080 Dietary Services;
9. 9 CSR 10-7.090 Governing Authority and Program Administration;
10. 9 CSR 10-7.100 Fiscal Management;
11. 9 CSR 10-7.110 Personnel;
12. 9 CSR 10-7.120 Physical Plant and Safety;
13. 9 CSR 10-7.130 Procedures to Obtain Certification;
14. 9 CSR 10-7.140 Definitions;
15. 9 CSR 10-5.190 Criminal Record Review; *[and]*
16. 9 CSR 10-5.200 Report of Complaints of Abuse and Neglect/; and
17. 9 CSR 10-5.220 Health Insurance Portability and Accountability Act of 1996.

AUTHORITY: sections 302.540, RSMo Supp. 2001 and 630.050, 630.655 and 631.102, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed March 8, 2002, effective Sept. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and
Developmental Disabilities
Chapter 5—Standards**

EMERGENCY AMENDMENT

9 CSR 45-5.060 Procedures to Obtain Certification. The department proposes to add a new section (14).

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EMERGENCY STATEMENT: This emergency amendment requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency amendment is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency amendment. A proposed amendment, which covers this same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Mental Health believes this emergency amendment is fair to all interested persons under the circumstances. This emergency amendment was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(14) The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA).

AUTHORITY: sections 630.050 and 630.655, RSMo 2000. **45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996.** Emergency rule filed Feb. 13, 2002, effective March 1, 2002, expired Aug. 27, 2002. Original rule filed Feb. 13, 2002, effective Aug. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Health Standards and Licensure Chapter 40—Comprehensive Emergency Medical Services Systems Regulations

EMERGENCY AMENDMENT

19 CSR 30-40.309 Application and Licensure Requirements Standards for the Licensure and Relicensure of Ground Ambulance Services. The department is amending by adding a new section (13).

PURPOSE: This amendment sets forth the process for an existing ambulance service licensee to reduce their primary service area.

EMERGENCY STATEMENT: Since 1973 the Missouri Department of Health and Senior Services has had statutory authority and responsibility to license and regulate emergency medical services. In 1998 the Missouri General Assembly passed Conference Committee Substitute for House Substitute for Senate Bill No. 743. This legislation embodies major revisions and additions to the Department of Health and Senior Service's authority effective August 28, 1998. These revisions and additions included removal of the Department's authority to license individual ambulance vehicles and mandates licensure and regulation of ambulance services, emergency medical response agencies and EMS training entities. On August 28, 1998, the prior law was rescinded and the associated regulations governing emergency medical services became obsolete. New regulations governing emergency medical services by the Department of Health and Senior Services were necessary to assure patient safety and were promul-

gated under the new legislation. The new regulations did not address how the department would proceed with allowing an existing ambulance service to discontinue providing ambulance service to an area that the ambulance service had been licensed to operate within as the sole ambulance provider. In past years, the trend was for ambulance service providers to expand their service areas. However, as the economic environment changes, some services have reevaluated this strategy and have decided to reduce their service areas. To allow an ambulance service to discontinue service to a specific area without notice, or finding another licensed provider to provide service to the area, would create a potential to have certain areas of Missouri without emergency medical services. In the past two (2) years there have been three (3) instances in which ambulance services have requested to discontinue service to a particular portion of their primary service area. These areas have been in rural parts of Missouri. A loss of ambulance service in these areas would cause great delays or a lack of service all together leaving those that are ill or injured without help. There is no provision for decreasing the primary service area currently, yet still maintaining some responsibility to assure continued service is available and there is the possibility that portions of Missouri would be left without ambulance service coverage.

As a result, it is the finding of the department that this emergency regulation is necessary for the appropriate regulation and licensing of emergency medical services. The Missouri Department of Health and Senior Services find an immediate danger to the public health, safety and welfare and a compelling governmental interest to be preserved which requires emergency action to set an early effective date for the required new regulations governing emergency medical services.

In light of the necessity for appropriate departmental regulations and licensing governing emergency medical services on an ongoing and uninterrupted basis, there is a compelling governmental interest to enact these rules through emergency rulemaking.

The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Health and Senior Services believes this emergency regulation to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 31, 2003, effective April 14, 2003 and expires October 11, 2003.

(13) An existing ambulance service licensee may apply for and be granted by Bureau of EMS a reduction in their primary service area if they meet the following requirements:

(A) Submit a completed application for licensure, requesting a reduction of their ambulance service area and include a detailed description of the affected area that will no longer be included in their primary service area; and

(B) Provide written documentation of an agreement with another licensed ambulance service, stating the service has agreed to provide ambulance service to the vacated service area through an expansion of their services, by either contract or mutual aid agreement or provide public notice to residents of the affected area.

1. Public notice to residents of the affected area includes:

A. Publishing notice in a newspaper of the largest general circulation, that is published in the county in the area affected by the decision to withdraw ambulance coverage, a minimum of one (1) year in advance of the proposed date of discontinuation of ambulance services. A completed affidavit of publication and an original clipping of published notice must accompany the application for licensure; and

B. Providing written notice to the county commission of any county that as a whole or in part, will be affected by the discontinuation of services, a minimum of one (1) year in advance of the proposed date of discontinuation of ambulance services.

*AUTHORITY: sections 190.103, 190.105, 109.107, 190.109, 190.120, 190.160, 190.165, 190.175, 190.176, RSMo Supp. 2001 and 190.185, 190.190, RSMo [Supp. 1998] 2000. Emergency rule filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Original rule filed Sept. 1, 1998, effective Feb. 28, 1999. Emergency amendment filed March 31, 2003, effective April 14, 2003, expires Oct. 11, 2003. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*